



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.16325 of 2018

and W.M.P(MD)No.14514 of 2018

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D.Ramanathan

... Petitioner

Vs.

1. The District Collector,
Collector Office,
Ramanathapuram,
Ramanathapuram District.
2. The Thasildar,
Taluk Office, Paramakudi,
Ramanathapuram District.
3. The Authorised Officer,
City Union Bank Limited,
No.24-B, Gandhi Nagar,
Kumbakonam - 612 001.
4. The Manager,
City Union Bank Limited,
Paramakudi,
Ramanathapuram District.

5.K.Amuthan

... Respondents

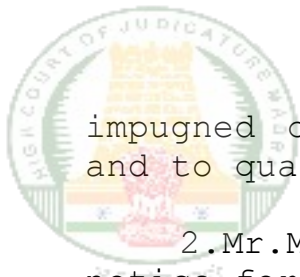
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second respondent vide his proceedings in Na.Ka.A1/6663/2018, dated 09.07.2018 and quash the same as illegal.

For Petitioner : Mr.D.Senthil
For RR 1 & 2 : Mr.R.Murugan,
Additional Government Pleader.

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above writ petition to issue a Writ of Certiorari, to call for the records pertaining to the



impugned order passed by the second respondent dated 09.07.2018 and to quash the same.

2.Mr.M.Jeyakumar, learned Additional Government Pleader takes notice for the respondents 1 and 2.

3.The petitioner, who is the borrower, has filed the writ petition challenging the order passed by the second respondent under Section 14 of the SARFAESI Act.

4.It is settled position that the proceedings under Section 14 of the SARFAESI Act is consequential. That apart, the petitioner has got remedy by way of an appeal before the Debts Recovery Tribunal challenging the order passed by the second respondent under Section 14 of the SARFAESI Act. Instead of filing an appeal before the Debts Recovery Tribunal, the petitioner has challenged the order by filing the writ petition under Article 226 of the Constitution of India. It was brought to the notice of this Court that the petitioner has already filed an appeal in S.A.No.264 of 2017 challenging the sale notice issued by the third respondent. It was also brought to the notice of this Court that the petitioner has filed a stay petition in the said second appeal and the same was dismissed by the Debt Recovery Tribunal. However, the petitioner chose not to file an appeal as against the order passed by the Debts Recovery Tribunal.

5.In these circumstances, we are of the considered view that when the petitioner got remedy by way of an appeal before the Debts Recovery Tribunal, filing a writ petition under Article 226 of the Constitution of India cannot be entertained. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Collector,
Collector Office,
Ramanathapuram,
Ramanathapuram District.

2. The Thasildar,
Sub Divisional Office,
Paramakudi,
Ramanathapuram District.



+1cc to Mr.D.Senthil, Advocate SR.No.74909

+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.75048

Ps

MK/KAK/SAR 2/06.08.2018/3P/5C

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25.07.2018